

STATE OF CONNECTICUT



DEPARTMENT OF PUBLIC SAFETY OFFICE OF THE COMMISSIONER

Colonel Danny R. Stebbins
Acting Commissioner

March 23, 2011

Rep. Gerald M. Fox, Co-Chairman
Sen. Eric D. Coleman, Co-Chairman
Judiciary Committee
Legislative Office Building
Hartford, CT 06106

HB 6490 AN ACT ESTABLISHING A PROCEDURE FOR RELIEF FROM CERTAIN FEDERAL FIREARMS PROHIBITIONS

The Department of Public Safety supports this bill.

The *National Instant Criminal Background Check* ("NICS") is a national computerized database that allows authorized users to check available records for an immediate response on persons disqualified from possessing firearms. In 2005, there were not any states (Connecticut included) that had procedures for entering the names of those disqualified from owning a gun because of mental disabilities into the NICS index. This created a significant public safety problem in that persons who could not purchase a gun in their own state, because of mental disabilities, could go to a neighboring state and purchase, because the NICS index would not show any disqualifiers. The federal government required all states to adopt procedures for getting the names of these individuals into the NICS index.

Pursuant to this requirement, the General Assembly passed Public Act 05-283, *AA Revising Statutes Relative to Firearms*, which required the Department of Public Safety ("DPS"), Department of Mental Health and Addiction Services ("DMHAS"), and the Judicial Department to enter into a memorandum of understanding ("MOU") with the Federal Bureau of Investigation to fully implement NICS in Connecticut. The act required DPS to report to the NICS Index, Denied Persons Files, the name, date of birth, and physical description of anyone barred from possessing guns under federal law, and to do so, in accordance with state and federal confidentiality laws. The required MOU was entered into and the names of the applicable individuals are now entered.

The federal government is now requiring that all states adopt a procedure for "relief from disabilities" by which a person whose name has been entered into the NICS index, because of mental disabilities, can seek relief. Federal Public Law 110-108, Section 105 enacted 1/8/08, NICS Improvement Amendments Act ("NIAA") requires a program for persons to petition for relief of firearms prohibitions for those prohibited from possessing or purchasing firearms due to various mental health adjudications as articulated in Title 18 U.S.C 922 d(4) and g(4).

The NIAA requires that a program for relief of firearms prohibitions due to mental health adjudications be enacted by each state that submits data regarding mental health adjudications to the NICS index as defined by Title 18 U.S.C 922 d and g. The NIAA provides that states which fail to create such a program, grant money, under the Omnibus Crime Control Act, would be decreased on a yearly basis by certain percentages until such a program is implemented.

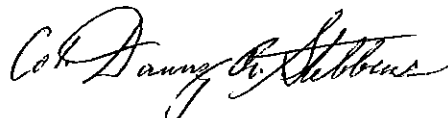
There are due process and record requirements in the act that are specific and will require Connecticut to certify to the US Attorney General and the U.S. Department of Justice that it has met the minimum requirements for compliance.

Passage of this bill will meet all requirements of NIAA and bring Connecticut into full compliance. The bill creates the required program by state law, including procedures and fees. The language of this bill incorporates the recommendations of a working group which includes DPS, DMHAS, the Judicial Department, the Office of Policy and Management and Probate Court Administration.

This bill provides an avenue for affected individuals that would require them to demonstrate by clear and convincing evidence that the reason for the prohibitor no longer exists and that allowing them possession of firearms would not pose a threat to the public. This bill provides for a thorough review of the individual's mental health status, balancing public safety with individual rights.

The Probate Court is the best forum due to the fact that conservatorships are created there and the Probate Court has the ability to request assistance from DMHAS in review of the petitioner. Clear and convincing is the proper standard of review because it is the standard used in the process of reviewing "at risk" search and seizure warrants. The bill requires notification to all the proper parties: the petitioner, the Commissioner of Public Safety, the Attorney General and the court which rendered the adjudication, or commitment. The bill also requires that the court creates a recording of the testimony given at such hearing, to meet the requirements of the program for purposes of the federal grant monies.

Sincerely,

A handwritten signature in cursive script, appearing to read "Col. Danny R. Stebbins".

Colonel Danny R. Stebbins
ACTING COMMISSIONER

PROPOSED AMENDMENT

LCO 3067, Section 1, Subsection (e), Lines 46-48

Failure to provide the requested information within such time period may [shall] result in a denial of the petition.

LCO 3067, Section 1, Subsection (j), Lines 82-85

The court shall grant relief under this section if it finds [In order to grant relief under this section, the court must find] by clear and convincing evidence that: (1) The petitioner will not be likely to act in a manner dangerous to public safety, and (2) granting the relief will not be contrary to the public interest.

